

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE ORDER**

IN THE MATTER OF:  
  
**MURPHY OIL USA, INC**

ADMINISTRATIVE  
ORDER

NO. 2016-UT-05

To: Brad Weinischke  
Sr. Specialist, Environmental Compliance  
Murphy Oil USA, Inc.  
200 East Peach Street  
El Dorado, AR 71730

Re: Non-compliance with Iowa law at facilities in Altoona, Knoxville, Newton,  
Indianola and Oskaloosa, Iowa.

**I. SUMMARY**

This administrative order (Order) addresses multiple violations of state law involving underground storage tanks (USTs) owned by Murphy Oil USA, Inc. (Murphy) at multiple facilities in the state of Iowa. The repeated nature of the violations evidence a serious lack of attention to the requirements of Iowa law intended to protect Iowa citizens from the accidental discharge of contaminants from USTs. As such, the Iowa Department of Natural Resources (DNR) is requiring Murphy to: 1) engage a licensed UST professional to inspect each facility listed in this Order; 2) submit a plan and time schedule for addressing any and all deficiencies listed in the inspection reports; 3) retrain all operators at the listed facilities to respond properly to reports of deficient or non-compliant UST equipment; and, 4) pay an administrative penalty of \$10,000.00.

Any questions regarding this Order should be directed to:

**Relating to technical requirements:**

Bill Gross, Env. Specialist Senior  
Iowa Department of Natural Resources  
Field Office 5  
7900 Hickman Rd., Ste. 200  
Windsor Heights, Iowa 50324  
P: 515-725-0268

**Relating to legal requirements:**

David Scott, Attorney  
Iowa Department of Natural Resources  
Wallace State Office Building  
502 E. 9th St.  
Des Moines, IA 50319  
Phone: 515-725-8239

**Send payment with Order # to:**

Director of the Iowa DNR  
Wallace State Office Building  
502 E. Ninth St.  
Des Moines, Iowa 50319

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**II. JURISDICTION**

This Order is issued pursuant to Iowa Code § 455B.476 which authorizes the Director of the DNR to issue orders directing a party to cease violation of Iowa Code chapter 455B, Division IV, Part 8 (underground storage tanks) and the rules and regulations adopted pursuant to that part and to require the party to take corrective action as necessary to ensure violations will not continue; and, Iowa Code § 455B.109 and 567 Iowa Administrative Code (IAC) 10, which authorize the Director to assess administrative penalties.

**III. STATEMENT OF FACTS**

The following relevant facts are presented in reverse chronological order for each respective facility.

1. Regarding the facility located at 3405 8<sup>th</sup> St., SW, Altoona, Iowa (Registration No. 200000043):

- a. A September 8, 2016 site visit resulted in a Notice of Violation (NOV) for failure to respond to a compliance inspection.
- b. A March 8, 2016 site visit resulted in an NOV for failure to maintain spill basins. Additionally, fuel/water was found in two dispenser sumps and a permanent ID tag was missing. The monthly spill-basin inspection log from January 2015 through May 2016 was not received until May 25, 2016.
- c. A September 29, 2014 site visit resulted in an NOV for failure to respond to a prior compliance inspection. Additionally, the automatic tank gauging (ATG) system was in alarm status, and required spill basin inspections had not been recorded. The completed UST Inspection Response Form addressing these issues was received on October 30, 2014.
- d. A December 18, 2013 inspection resulted in an NOV for improper spill basin maintenance.
- e. A January 29, 2013 inspection resulted in an NOV for improper spill basin maintenance and release detection.
- f. On May 4, 2012, Administrative Order No. 2012-UT-03 was issued after persistent UST compliance violations. The order required proper spill basin and sump inspection and maintenance, resolution of interstitial alarms, proper release detection and record keeping, and payment of a \$6,000.00 administrative penalty. The order includes

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specific stipulated penalties for future violations that the DNR has the authority to pursue.

2. Regarding the facility located at 814 Bell Avenue, Knoxville, Iowa (Registration No. 200000038):

- a. An August 30, 2016 site inspection resulted in an NOV for failure to respond to a previous compliance inspection and to properly operate the release detection system (the ATG was in alarm status). Also, liquid was found in secondary containment sumps.
- b. A September 30, 2014 site inspection resulted in an NOV for failure to respond to a previous compliance inspection and not properly maintaining equipment (corroded dispensers). Also, no vapor test reports were available at the time of the site visit.
- c. An April 8, 2013 site inspection resulted in an NOV for improper spill basin maintenance.
- d. An April 28, 2011 site inspection resulted in an NOV for improper release detection and spill basin maintenance.
- e. An August 16, 2010 inspection resulted in an NOV for improper release detection and failure to report a petroleum release.

3. Regarding the facility located at 200 Iowa Speedway Dr., Newton, Iowa (Registration No. 200000037):

- a. An August 26, 2016 site inspection resulted in an NOV for failure to respond to a compliance inspection, spill basin maintenance, and release detection. Other deficiencies included liquid in dispenser basins, inadequate operator training, and a tank-fuel compatibility issue. A partial response was received via email on September 27, 2016, stating that Seneca Environmental Services had reprogrammed and relocated all the under dispenser containment sensors, and that by September 30, 2016, all liquids would be removed from containment and the fill adapter and cap would be replaced. Additionally, a new manway cover had been installed the previous week.
- b. An October 6, 2014 site inspection resulted in an NOV for failure to respond to a compliance inspection and for not properly maintaining equipment (corroded vapor recovery valve). Also, no vapor test reports were available.

4. Regarding the facility located at 1502 N. Jefferson Way, Indianola, Iowa (Registration No. 200000029):

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- a. A September 8, 2016 site inspection resulted in an NOV for failure to respond to a compliance inspection, to properly maintain spill basins, and to have adequate operator training. A partial response was received via email on September 26, 2016, stating that a work order had been made and repairs scheduled for the end of October. It also stated that liquid had been removed from dispenser sumps.
  - b. A May 12, 2016 site inspection resulted in an NOV for failure to properly maintain spill basins. Also, written emergency response procedures were not available on-site at the time of inspection.
  - c. A September 26, 2014 inspection visit resulted in an NOV for failure to respond to a compliance inspection. The completed Iowa UST Inspection Response Form was received on October 30, 2014, indicating that work was completed at the site.
5. Regarding the facility located at 2201 A Avenue, West, Oskaloosa, Iowa (Registration No. 200400003):
- a. An August 30, 2016 site inspection resulted in an NOV for failure to respond to a compliance inspection and to properly operate the release detection system (the ATG was in alarm status). Also, liquid was found in secondary containment sumps.
  - b. An October 9, 2014 site inspection resulted in an NOV for failure to respond to a compliance inspection and not properly maintaining equipment (corrosion). Also, deficiencies were found as the ATG was in alarm status, the spill basins were not being maintained, and permanent ID tags were not affixed to the fill pipes.

**IV. CONCLUSIONS OF LAW**

1. The Iowa legislature established the UST program because the release of regulated substances from USTs constitutes a threat to the public health and safety and to the natural resources of the state. IC § 455B.472.

2. The Iowa legislature authorized the Iowa Environmental Protection Commission (EPC) to adopt rules relating to release detection, release prevention, and contamination correction as may be necessary to protect human health and the environment applicable to all owners and operators of USTs. IC § 455B.474(1)"a".

3. The EPC has adopted such rules at 567 Iowa Administrative Code (IAC) chapter 135.

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4. Murphy is the owner of the USTs at the above-referenced facilities and, as such, is the responsible party for preventing any contamination resulting from discharges at its facilities. IC § 455B.471(6); 567 IAC 135.2.

5. Pursuant to 567 IAC 135.20(3), the owner and operator of USTs is required to do the following upon receipt of a compliance inspection report that finds violations of state UST regulations:

- a. Take all actions necessary to correct any compliance violations or deficiencies. Corrective action must be taken within the time frame established by rule or, if no time frames are established by rule, within 60 days of receipt of the inspector's report or another reasonable time period approved by the DNR.
- b. Within 60 days of receipt of the inspector's report, provide documentation to the compliance inspector that the violation or deficiencies have been corrected.
- c. Conduct a follow-up inspection in instances where there are serious problems or a history of repeated violations when required by the DNR.

The above-stated facts establish multiple violations of these regulatory requirements.

6. Pursuant to 567 IAC 135.3(1)c requires owners and operators to use spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin). Since 2010, the DNR has documented spill basins containing fuel and water at one or all the Murphy stations noted above. By failing to keep its catchment basins free of debris, water, and product, and by failing to consistently inspect its basins as required by regulation and by the 2012 administrative order, Murphy has failed to insure that its spill prevention equipment is adequate to prevent a release to the environment.

7. Pursuant to 567 IAC 135.5(1), owners and operators of new and existing UST systems must provide a method, or combination of methods, of release detection that: (1) can detect a release from any portion of the tank and the connected underground piping that routinely contains product; (2) is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; and (3) meets the performance requirements in 135.5(4) or 135.5(5), with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer.

8. Leak detection methods conducted in accordance with the applicable regulations must be capable of detecting the leak rate or quantity specified for

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that method with a probability of detection of 0.95 and a probability of false alarm of 0.05. When a release detection method operated in accordance with these performance standards indicates a release may have occurred, owners and operators must notify the DNR in accordance with 567 IAC 135.6. Since 2010, the DNR has documented unattended alarms on ATG at one or all the Murphy stations noted above. Release detection records and reporting have also been deficient. These facts represent violations of these regulatory requirements.

**V. ORDER**

**THEREFORE**, the Director of the DNR orders Murphy to comply with the following:

1. At all times, comply with Iowa UST release detection requirements.
2. At all times, fully and adequately respond to compliance inspection deficiencies within sixty days of the inspection. Such responses must include proof that deficiencies have been addressed or provide a reasonable time schedule for their resolution.
3. Within 60 days of the date that this Order is signed by the Director, have an Iowa-licensed UST professional inspect all UST equipment and appurtenances at the facilities listed in this order, and submit a report to Iowa DNR that: 1) lists all instances of non-compliance with Iowa UST regulations discovered at each facility; and, 2) provide a detailed compliance schedule for repairing and upgrading any deficient UST equipment or other instances of non-compliance discovered.
4. Within 60 days of the date that this Order is signed by the Director, provide proof that all certified operators for each facility have been re-trained to respond properly to environmental issues including, but not limited to: ATG alarms, fuel spills, and spill basin and containment sump maintenance.
5. Within 60 days of the date that this Order is signed by the Director, submit a penalty payment of \$10,000.00 to the DNR.

**VI. CIVIL PENALTY**

1. Iowa Code § 455B.109 authorizes the EPC to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The EPC has adopted this schedule with procedures authorizing the Director to assess administrative penalties at 567 IAC 10.

2. Additionally, Iowa Code § 455B.477 provides for civil penalties of up to \$5,000.00 per day for violations of Iowa Code § 455B, Division IV, Part 8 (underground storage tanks). More serious criminal sanctions are also available

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pursuant to Iowa Code § 455B.477. The DNR retains its right to pursue civil penalties if Murphy does not comply with the requirements of this Order.

3. 567 IAC 10 establishes the criteria that the DNR must consider in determining whether an administrative penalty is warranted, and if so how much the penalty should be. The general categories of consideration are the economic benefit of the alleged non-compliance by the violator, the gravity of the alleged violation, and the culpability of the violator. These categories are addressed below and the administrative penalty is determined as follows:

a) Economic Benefit: Murphy's cost savings from its failure to address deficiencies noted in the above-referenced inspections—which commonly pertained to ATG alarms (usually due to liquid in sumps) and spill basin maintenance—over several years at several stations would conservatively be estimated at \$3,000.00.

b) Gravity of the Violations: Regulations have been enacted in the state of Iowa to prevent the discharge of pollutants due to leaking storage tanks. The contaminants contained in such tanks can cause serious health and environmental impacts. Interstitial monitoring has been the primary method of release detection for the facilities referenced above. Monitoring probes in secondary containment sumps send out alarms on the ATG's when liquid is detected. Failure to readily respond to these alarms poses a threat of serious environmental contamination if fuel is leaking. In addition to a general lack of attention to equipment problems, Murphy employees failed to respond to alarms at multiple facilities over multiple years. \$3,000.00 is assessed for this factor.

c) Culpability: Murphy was issued an administrative order in 2012 for secondary containment and release detection violations. Since that time, compliance inspections have found similar violations at several facilities and, despite numerous warnings from DNR, Murphy has failed to respond in a timely manner. \$4,000.00 is assessed for this factor.

4. As such, an administrative penalty of \$10,000.00 is imposed by this Order. Failure to assess a penalty for the violations listed above would threaten the integrity of the regulatory program by not providing a financial incentive for responsible parties to comply with applicable regulations.

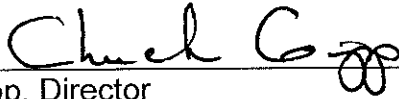
## VII. APPEAL RIGHTS

A written Notice of Appeal may be filed with the Director within 30 days of your receipt of this Order. A contested case hearing will then be commenced pursuant to Iowa Code § 17A and 561 IAC 7. Please note that failure to file a timely appeal within 30 days will result in you forfeiting the right to appeal this Order.

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**VIII. NONCOMPLIANCE WITH THIS ORDER**

Failure to comply with any requirement of this Order may result in the imposition of additional penalties and referral to the Iowa Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code § 455B.477. Compliance with Section V (Order) of this Order constitutes full satisfaction of any requirements pertaining to any specific violations described in Section IV (Conclusions of Law) of this Order.

  
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Chuck Gipp, Director  
Iowa Department of Natural Resources

Dated this 15<sup>th</sup> day of  
December, 2016.

CC: Field Office 5, David Scott; V.F.